USDA

UNITED STATES	RURAL	101 SOUTH MAIN STREET
DEPARTMENT OF	DEVELOPMENT	SUITE 102, FEDERAL BUILDING
AGRICULTURE		TEMPLE, TEXAS 76501

Voice: 254-742-9750
Fax: 254-742-9753
TDD: 254-742-912

October 15, 1999

Rural Development Texas AN 519 (2018)

SUBJECT: Requirements for Agency Approval of USDA Employees to Testify on Behalf
Of a Party Other Than the United States (U. S.) Where the U. S. Is Not a Party

TO: All Employees
Rural Development, Texas

PURPOSE/INTENDED OUTCOME:
The purpose of this Texas Administrative Notice (AN) is to advise employees of the requirement
and procedures to request and receive agency approval to testify as a Rural Development
employee on behalf of a party other than the U. S., where the U. S. is not a party.

Esther Gonzalez, Management Control Officer has been designated the contact person for the
maintenance and handling of subpoenas.

COMPARISON WITH PREVIOUS AN:
This AN replaces TX AN 489 which expired February 28, 1998.

IMPLEMENTATION RESPONSIBILITIES:
Department policy governing the appearance of USDA employees as witnesses to testify as a
Rural Development employee or produce official documents in judicial or administrative
proceedings is that where the U. S. is not a party, an employee served with a subpoena to testify
may not so testify unless his/her appearance has been authorized by the agency head (State
Director).

In order to comply with the "approval to appear" process in a timely manner, certain information
is needed to approve/disapprove an employee to appear. Upon receipt of a subpoena to testify in
a case in which the U. S. is not a party, the employee must immediately complete **Attachment A**
and return it (**via FAX, if possible**) along with copy of the subpoena to the State Office, ATTN:
Esther Gonzalez. Attachment B will be provided to any attorney involved where there may be a
possibility an employee will be subpoenaed.

EXPIRATION DATE: September 30, 2000   FILING INSTRUCTIONS:
                                             Following Instruction 2018-F

Many subpoenas involve very short time frames (from date of receipt to court date) so it is very important to provide a copy of the subpoena and all information requested on the attached form. If for some reason the employee has testified previously in the matter, the agency may be barred from now, at a later date, preventing the employee from testifying. If such a situation does occur, the Director, Administrative Programs will seek further advice from OGC.

Subpoenas for agency records in proceedings in which the U. S. is not a party will be handled as requests for records under the Freedom of Information Act.

/s/ Steven A. Carriker

STEVEN A. CARRIKER
State Director

Attachment

SUBJECT: Requirement for Agency Approval of USDA Employees to Testify on Behalf of a Party Other Than the United States (U. S.) Where the U. S. Is Not a Party

   TO: State Director
        Rural Development

 ATTN: Management Control Officer

In accordance with Texas AN No. _____ the following information is provided as a result of an employee being served with a subpoena or other compulsory process demanding testimony or making available documents in a judicial proceeding in which the government is not a party.

• Name of Employee whose testimony is requested:

• Employee's Title/Position and County:

• Date Subpoena or Other Compulsory Process Received:

• Nature of Judicial Proceeding:

• Nature of Testimony or Documents Requested:

• What interest of USDA, if any, would be promoted by the employee's testimony?

• Would an appearance by the employee result in an unnecessary interference with the employee's duties? If so, please explain.

• Would the employee's testimony result in the appearance of improperly favoring one litigant over another? If so, please explain.

• Dates(s) that the employee will be required to appear:

• Total length of appearance time;

• Has the employee or any other Rural Development employee previously testified in the particular matter being litigated? If so, please identify employee and give date(s) if known.

An exact copy of the summons, subpoena, or other compulsory process received by the employee is attached.

_____
EMPLOYEE SIGNATURE / DATE